

MINUTES

Tennessee Board of Examiners for Land Surveyors

The Tennessee Board of Examiners for Land Surveyors met on Thursday and Friday, September 8-9, 2005 in Room 212 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, TN.

THURSDAY, SEPTEMBER 8, 2005 –

Those present were: Marshall H. (Pete) Ragan, Chairman; David Mathews, Vice-Chairman; Sue Braly, Public Board Member; Robert Herndon, Staff Attorney; and Donna Moulder, Administrative Director for the Board.

Max Billingsley, Board Member, was not present.

Also present at the meeting were Jody Stone, Consumer Ombudsman for the Division of Regulatory Boards and Ross Nichols.

Chairman Ragan called the meeting to order at 9:20 a.m.

Jody Stone spoke to the board about new complaint procedures.

Ross Nichols, from the Assistant Commissioner's office, visited to observe the meeting.

Robert Herndon, Staff Attorney, presented the following complaints for the board's review:

Complaint #200501550 –

This complaint alleges that the respondent is operating as an unlicensed land surveyor. The complainant states that the respondent is currently operating the land surveying practice of a deceased land surveyor and having the resulting plats stamped by a licensed land surveyor for a commission. The complainant further alleges that the respondent was signing the deceased licensed surveyor's name while he was still alive, but too ill to practice.

In reply, the respondent says that he has employed a licensed land surveyor in his firm, who conducts supervisory oversight of all land surveying activities. The respondent says that he asked the board if this would be acceptable, and received assurances that it was as long as the licensed land surveyor was not simply stamping the plats.

David Mathews made a motion to have the complainant(s) submit evidence of the unlicensed practice of surveying by falsifying a deceased surveyor's name

and certificate on surveys. Pete Ragan seconded the motion. The motion carried unanimously.

Complaint #200501554 –

This complaint involves the same parties as the complaint above, only against the licensed land surveyor. In repeating the facts, the complaint alleges that the respondent is operating as a licensed land surveyor who simply stamps plats and does not oversee the actual land surveying activities. The respondent denies these allegations based on the reasons given in the complaint above.

David Mathews made a motion to have the respondent submit evidence that he is employed or a partner or part owner of the firm. The board also needs a statement from the respondent's current employer that he is not stamping or sealing surveys in that respect. Pete Ragan seconded the motion. The motion carried unanimously.

Complaint #200501686 –

The complainants in this matter were present at their own request.

The complaint alleges that the respondent, a licensed land surveyor, acted in a manner that is unprofessional and incompetent. The complainant alleges that the respondent conducted a survey in which the respondent moved or removed markers and used markers which were not regulation height and set concrete markers with no identifications. The complaint also alleges ethical violations in that the respondent and the land owner that benefited from any errors are related.

In reply, the respondent states that all conversations with the complainant were amicable, and that the respondent simply reset the original iron pins due to the condition of the originals. There is allegation of a boundary dispute, which the respondent admits. The respondent says that the complainant later removed markers set by the respondent, then accused the respondent of moving markers.

The staff attorney recommended that an informal conference be held to address practice standards. A board member is to review this complaint and give his recommendation at tomorrow's meeting.

Complaint #200500832 –

This complaint alleges that the respondent, a former licensee, conducted a land survey for the complainants in 1994. At that time, the respondent was licensed. The complaint suggests that there were discrepancies involving a 20 foot strip between two parcels of land that became apparent when the owners began

improvements. However, the complainants have withdrawn the complaint against the respondents.

David Mathews made a motion to dismiss this complaint. Pete Ragan seconded the motion. The motion carried unanimously.

Complaint #200501654 –

This complaint alleges that the respondent, a licensed land surveyor, was hired in the summer of 2004 to perform some land surveying, which he did via GPS. He didn't complete the project, and after repeated attempts to contact him that extended into 2005, the complainants lodged this complaint claiming the respondent would not return to complete the work. In reply, the respondent states that the work asked for was additional, after all payments were made and the matter concluded. The respondent stated that he told the complainants that he would do his best to get to the job, but workload increases continuously prevented it. The respondent believes he fulfilled any original obligation. Neither party provides a contract for work to be performed, but there are many cancelled checks and a plat in the file.

David Mathews made a motion to dismiss this complaint. Sue Braly seconded the motion. The motion carried unanimously.

Complaint #200502608 –

This complaint alleges that the respondent produced a plat for the complainant that failed to show drainage easements along lot lines, instead only showing utility easements. The respondent provides a final plat which shows drainage indicators. The respondent suggests that a "soil grid" copy was presented to the complainants or another government agency by accident. The respondent has not had a history of misrepresentation or incompetence.

Sue Braly made a motion to dismiss this complaint. David Mathews seconded the motion. The motion carried unanimously.

NEW BUSINESS:

Bart Lay, future applicant, met with the board, at his request, to discuss his education. The board suggested to Mr. Lay that he needed to fill out an application and apply his courses as Mr. Lay sees he needs to as the application requires and then if the board doesn't agree with it then Mr. Lay can submit backup data, anything that will help the board determine whether Mr. Lay meets the requirements for licensure. Mr. Ragan stated Mr. Lay does not have any surveying courses whatsoever; he's only taken one boundary course and that

may be government surveying. Mr. Ragan informed Mr. Lay that he would have to take a lot of surveying courses before he would be able to apply for the PLSIT. Mr. Ragan told Mr. Lay to send his application in with what Mr. Lay thinks applies with the best description that he can provide the board, then board might take time out from a meeting and look at and tell Mr. Lay whether the board will consider it or not and then Mr. Lay will know how many courses he has to take.

Robert Herndon, Staff Attorney, informed the board about a memorandum and forms pertaining to the professional privilege tax and delinquent child support. Sue Braly made a motion to accept the forms submitted. David Mathews seconded the motion. The motion carried unanimously.

The board then began the application for review for the October 2005 examination.

The board reviewed the policy statement regarding the application/testing process, to be effective October 1, 2005. Sue Braly made a motion to accept the policy statement. David Mathews seconded the motion. The motion carried unanimously.

There being no further business, the meeting was adjourned at 3:15 p.m.

FRIDAY, SEPTEMBER 9, 2006 –

Those present were: Marshall H. (Pete) Ragan, Chairman; David Mathews, Vice-Chairman; Sue Braly, Public Board Member; Robert Herndon, Staff Attorney; and Donna Moulder, Administrative Director for the Board.

Max Billingsley, Board Member, was not present.

The board continued reviewing applications for the October 2005 examination.

Brian McCain, TLS #2256 and his attorney, Chris Cravens requested a meeting with the board to discuss a discrepancy on the experience portion of his application. Mr. Ragan recommended that the board file a complaint against Mr. McCain for tracking purposes. Mr. McCain needs to complete a new, corrected application and return it to the board. Mr. Ragan made a motion that the board send Mr. McCain a letter of warning regarding this matter. David Mathews seconded the motion. The motion carried unanimously.

David Mathews reviewed the complaint file #200501686 – Cripps vs. White. Mr. Mathews made a motion to hold an informal conference with the complainant and the respondent. Mr. Mathews also requested that Mr. Cripps bring a certified copy of a survey that Darrel McBride has prepared. In addition, Mr. White has not furnished a survey. Mr. Mathews stated that it is the assumption that Mr.

White has relied upon his 1996 survey; the board needs something to show what the latest survey is about. Sue Braly seconded the motion. The motion carried unanimously.

There being no further business, the meeting adjourned at 1:50 p.m.

Respectfully submitted,

Donna Moulder
Administrative Director

Marshall H. (Pete) Ragan

David Mathews

K. Max Billingsley

Sue Braly

APPLICATIONS APPROVED FOR THE OCTOBER 2005 EXAMINATION

Jeremy Horn
Mark Edward Crow
Brad Tyson Thomas
Jason Stivers
Stephen Murrell
Jonathan Willis
Carlen J. Wiggins, Jr.
Clint Elliott
Jason Carmack
Billy Berger
Martin Figura
Glen Trent
Jeffrey Weems
Randall White
Thomas Vester
Robert L. Akins
David M. Brown
Jonathan C. Clark
Kevin Hollar
Michael Lawson
Charles Martin
Richard Miller
William S. Payne III
Randy Rambeau
Edward Miller
Arthur Michael Dial
Daniel Chadwick Moore
Edward Canada (PLSIT)
Robert Paul Taylor (PLSIT)
Gary Scott Carter
Phillip Gotro
Aaron Sams
Andrew Wright Stokes

DENIED APPLICATIONS:

Darrell Harried – only 11 months of experience; needs 12 more hours from List I and 13 more months experience; plats not certified

Derek Jordan – no transcripts from College of Denver

William D. Bell – only has associates degree; no references

Billy Ray Mayberry – needs 18 hours of surveying related courses from Course List I and 1 hour of surveying related courses from Course List II.